

Rhode Island 2005 Legislative Initiatives and Sample Language

The Need for 45-Day Ballot Transit Time

Despite the alternative of mailing the official state blank ballot 45 days before an election if the official ballot is not yet available, Rhode Island military and overseas voters continue to have an extremely short period of time to receive, vote, and return their absentee ballots in order to be counted (21 days) in the regular absentee ballot delivery process. While electronic transmission of election materials offers an alternative to speed ballot transit time, inadequate ballot transit time through the mail remains the primary obstacle to timely delivery of absentee ballots for those who request them. Our post-election surveys and Postal Service statistics indicate that a **45-day transit time is needed** for absentee ballots sent through international mail or the military APO/ FPO (overseas) post offices. This round trip transit time is especially necessary because of the remote location of many military personnel and overseas citizens such as sailors and marines aboard ship, airmen and sailors at isolated tracking sites around the world, as well as Department of State personnel and citizen employees of American multinational corporations in remote areas.

Sample Language

For all elections, the official charged with the printing and distribution of ballots and election materials shall print as many absentee ballots as may be necessary as soon as possible after receiving the information concerning candidates and measures to be voted on at an election, and balloting materials shall be mailed not later than the 45th day before the election.

Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) Coverage and Notary Requirement

Under Section 17-20-6.1, Rhode Island provides that the Federal Post Card Application (FPCA) may be used as a request for an absentee ballot by the following groups under *UOCAVA* (42 U.S.C. § 1973ff):

- (1) A member of the armed forces who is absent from the state by reason of being in active service;
- (2) Any person absent from the state in performance of "services intimately connected with military operations" as defined in § 17-20-3(d); and
- (3) Any person who is employed outside of the United States as defined in § 17-20-3(c)

In contrast, *UOCAVA* includes Uniformed Services and overseas citizens defined in Section 107 as follows:

- (1) "absent uniformed services voter" means --:

- (A) a member of a uniformed service on active duty who, by reason of such active duty, is absent from the place of residence where the member is otherwise qualified to vote;
 - (B) a member of the merchant marine who, by reason of service in the merchant marine, is absent from the place of residence where the member is otherwise qualified to vote; and:
 - (C) a spouse or dependent of a member referred to in subparagraph (A) or (B) who, by reason of the active duty or service of the member, is absent from the place of residence where the spouse or dependent is otherwise qualified to vote;
- (5) "overseas voter" means --:
- (A) an absent uniformed services voter who, by reason of active duty or service is absent from the United States on the date of the election involved;
 - (B) a person who resides outside the United States and is qualified to vote in the last place in which the person was domiciled before leaving the United States; or:
 - (C) a person who resides outside the United States and (but for such residence) would be qualified to vote in the last place in which the person was domiciled before leaving the United States.

Rhode Island law excludes *UOCAVA* citizens who mark 8.d. on the FPCA from the procedures of 17-20-6.1, which waives registration, and subjects them to additional procedures in Section 17-21.1-3 by requiring them to submit the Mail Ballot Application and affidavit prior to mailing the absentee ballot. This introduces additional steps and mailing time into the process and the requirement to obtain notarial services to exercise their right to vote. In many countries, voters have paid up to \$90 for these services and other countries do not have notaries in their system of jurisprudence.

Thus, we request that Rhode Island include those overseas citizens currently covered by these separate procedures in Section 17-21.1-3 under Section 17-20-6.1 to allow these citizens to use the FPCA to request an absentee ballot in the same way as the rest of the *UOCAVA* citizens. As an alternative, Rhode Island could include the Mail Ballot Application along with the ballot to register the applicant and have the citizen attest to a self-administered oath on the form, eliminating the requirement for a notary.

Emergency Authority for Chief Election Official

During a period of a declared emergency or other situation where there is a short time frame for ballot transmission, it is recommended that Rhode Island's **Chief Election Official have the authority in law to designate alternate methods for handling absentee ballots** to ensure voters have the opportunity to exercise their right to vote. The Chief Election Official and the Federal Voting Assistance Program could mutually

establish expeditious methods for handling absentee ballots including electronic transmission.

We note that in 2003 Governor Carcieri signed into law legislation naming the Secretary of State (SoS) the Chief State Election Official in Rhode Island and that your Legislative Implementation Report for 2004 indicates that the SoS intends to introduce legislation to provide the necessary emergency authority for the SoS as the chief election official. If we can help in this effort, please let us know.

Sample Language

If a national or local emergency or other situation arises which makes substantial compliance with the provisions of the Uniformed and Overseas Citizens Absentee Voting Act impossible or unreasonable, such as a natural disaster or an armed conflict involving United States Armed Forces, or mobilization of those forces, including State National Guard and Reserve components, the Chief Election Official may prescribe, by emergency orders or rules, such special procedures or requirements as may be necessary to facilitate absentee voting by those citizens directly affected who otherwise are eligible to vote in the state.

The Chief Election Official shall adopt rules describing the emergency powers and the situations in which the powers will be exercised.